

**House File 2413 - Introduced**

HOUSE FILE 2413

BY ABDUL-SAMAD and GAINES

**A BILL FOR**

1 An Act relating to the sealing of certain criminal records  
2 and including effective date and retroactive applicability  
3 provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. NEW SECTION.   **692C.1 Criminal records — seal.**

2     1. As used in this section:

3     *a. "Conviction"* means a conviction for a criminal offense  
4 and includes a guilty plea or deferred judgment but does not  
5 include a conviction for an offense classified as a simple  
6 misdemeanor punishable as a scheduled violation or a similar  
7 offense.

8     *b. "Criminal history data"* means the same as defined in  
9 section 692.1.

10    *c. "Employer"* means a person engaged in a business who  
11 has one or more employees, agents, or contract employees.  
12 "*Employer*" includes the armed forces of the United States, the  
13 Iowa army national guard, and the Iowa air national guard.  
14 "*Employer*" also includes an organization with volunteers.

15    *d. "Seal"* means to physically and electronically maintain  
16 the record, but to make the record unavailable to the public  
17 without a court order and to remove the petitioner's name from  
18 any official record accessible to the public that is maintained  
19 by the department of public safety or the judicial branch  
20 including removal of all criminal history data relating to the  
21 conviction from any official record accessible to the public.

22    2. Ten years after being discharged from a sentence for a  
23 conviction of a criminal offense, a person may file a petition  
24 requesting the court to seal records relating to the conviction  
25 for the criminal offense if all of the following apply:

26    *a.* The person has not been convicted of a criminal offense,  
27 other than a simple misdemeanor punishable as a scheduled  
28 violation or a similar offense, in the period of time between  
29 the conviction of the offense and the time of the filing of the  
30 petition.

31    *b.* The person has no pending criminal charges.

32    *c.* All restitution, civil penalties, court costs, fines,  
33 fees, or other financial obligations ordered relating to the  
34 conviction have been paid in full.

35    *d.* The criminal offense was not a violent offense

1 directed at another person such as but not limited to murder,  
2 manslaughter, homicide, assault, arson in the first degree,  
3 sexual abuse, robbery, burglary in the first or second degree,  
4 kidnapping, or an attempt to commit such a criminal offense.

5 3. For each criminal offense for which the request seeks to  
6 seal records, the petition must contain all of the following:

7 a. The date of arrest.

8 b. The arresting law enforcement agency.

9 c. The case number assigned.

10 d. The date of discharge from the sentence.

11 4. The petition shall be filed in the county where the  
12 criminal offense occurred. If the petition contains a request  
13 to seal a criminal offense committed in more than one county,  
14 the petition shall be heard in the county where the majority  
15 of convictions occurred.

16 5. The petitioner shall provide notice of the petition to  
17 the prosecutorial office that prosecuted the criminal offense  
18 and the department of public safety.

19 6. The prosecutorial office that prosecuted the criminal  
20 offense shall have sixty days from the date of notification to  
21 file an objection to the petition.

22 7. If the prosecutorial office objects to the petition, the  
23 court may, but is not required to, conduct a hearing on the  
24 petition and hear any evidence deemed appropriate by the court.

25 8. If no objection is filed and upon a showing of good  
26 cause that the offense was not a violent offense directed at  
27 another person, the court shall order all records relating to  
28 the conviction listed in the petition sealed.

29 9. Notwithstanding any other law to the contrary, upon  
30 entry of an order sealing records pursuant to this section,  
31 the judicial branch shall seal all records relating to the  
32 conviction including the arrest information and the order  
33 sealing the records. The judicial branch shall remove such  
34 records from public access including removal from the Iowa  
35 court information system.

1     10. The clerk of the district court shall notify the  
2 department of public safety of the order sealing all records  
3 relating to the conviction. Upon notification of the order  
4 sealing all records relating to the conviction, the department  
5 of public safety shall seal the criminal history data and  
6 other related records including the order sealing the records,  
7 and shall not disclose the criminal history data pursuant to  
8 a request under section 692.2, subsection 1, paragraph "b",  
9 unless a criminal history data check is required by an employer  
10 as a matter of law.

11     11. If the department of public safety receives a request  
12 for criminal history data pursuant to section 692.2, subsection  
13 1, paragraph "b", the department of public safety shall not  
14 disseminate the criminal history data and other related records  
15 including the order sealing the records if the records are  
16 under seal unless a criminal history data check is required  
17 by an employer as a matter of law. The response by the  
18 department of public safety relating to a request shall be  
19 indistinguishable from the response the department would  
20 provide to a request for a criminal history data check for  
21 a person with no criminal history data unless the person has  
22 criminal history data that is not sealed.

23     12. *a.* An application for employment used by an employer  
24 which seeks information concerning prior arrests or convictions  
25 of the applicant shall include the following statement:

26     An applicant for employment with a sealed record may answer  
27 "no record" with respect to any inquiry relating to arrests,  
28 criminal court appearances, or convictions, for which the  
29 records are sealed.

30     *b.* This subsection does not apply to an employer required by  
31 law to conduct a criminal history data check on an applicant.

32     *c.* Notwithstanding this subsection, an applicant who applies  
33 for a position with an employer that requires a criminal  
34 history data check as a matter of law shall be required to  
35 disclose the arrest, criminal court appearance, or conviction

1 if required by law.

2 13. The sealing of a record related to a conviction  
3 pursuant in this section shall not be construed to prevent the  
4 conviction to be counted as a previous offense for purposes of  
5 prosecution and sentencing.

6 Sec. 2. EFFECTIVE DATE. This Act takes effect January 1,  
7 2013.

8 Sec. 3. RETROACTIVE APPLICABILITY. This Act applies  
9 retroactively to a conviction for a criminal offense committed  
10 on or after January 1, 1993.

11 EXPLANATION

12 This bill relates to the sealing of a criminal record.

13 Under the bill, 10 years after being discharged from a  
14 sentence for a conviction of a criminal offense, a person  
15 may petition the court requesting the court to seal records  
16 relating to the conviction of the offense if all of the  
17 following apply: the person has not been convicted of a  
18 criminal offense, other than a simple misdemeanor punishable  
19 as a scheduled violation or similar offense, in the period of  
20 time between the conviction of the offense and the time of the  
21 filing of the petition; the person has no pending criminal  
22 charges; all restitution, civil penalties, court costs, fines,  
23 fees, or other financial obligations ordered relating to the  
24 conviction have been paid in full; the offense was not a  
25 violent offense directed at another person such as but not  
26 limited to murder, manslaughter, homicide, assault, arson in  
27 the first degree, sexual abuse, burglary in the first or second  
28 degree, kidnapping, or an attempt to commit such an offense.

29 The bill requires the petition to seal a criminal record  
30 to contain all of the following: the date of arrest for each  
31 offense, the arresting law enforcement agency, the case number  
32 assigned to each offense requested to be sealed, and the date  
33 of discharge from the sentence for each case.

34 The bill requires the petitioner to notify the prosecutorial  
35 office that prosecuted the criminal offense and the department

1 of public safety that a petition to seal a criminal record has  
2 been filed.

3 The bill specifies the prosecutorial office that prosecuted  
4 the case shall have 60 days from the date of the notification  
5 to file an objection to the petition.

6 Under the bill, if the prosecutorial office objects to the  
7 petition, the court may, but is not required to, conduct a  
8 hearing on the petition and hear any evidence that is deemed  
9 appropriate by the court.

10 If no objection to the petition is filed and upon a showing  
11 of good cause, the bill requires the court to order all the  
12 records relating to the conviction listed in the petition  
13 sealed.

14 Upon the issuance of an order sealing the records relating  
15 to a conviction, the bill requires the judicial branch to seal  
16 all records relating to a conviction including the arrest  
17 information and the order sealing the record, and to remove  
18 such records from public access including removal from the Iowa  
19 court information system.

20 The bill requires the clerk of the district court to notify  
21 the department of public safety of the order sealing all  
22 records relating to the conviction. Upon notification of the  
23 order sealing all records relating to the conviction, the bill  
24 requires the department of public safety to seal the criminal  
25 history data and other related records including the order  
26 sealing the records. The bill specifies that the department  
27 of public safety shall not disclose the criminal history data  
28 pursuant to a criminal history data check under Code section  
29 692.2(1)(b) unless a criminal history data check is required by  
30 an employer as a matter of law.

31 If the department of public safety receives a request for  
32 criminal history data pursuant to Code section 692.2(1)(b), the  
33 department shall not disseminate the criminal history data and  
34 other related records including the order sealing the records  
35 if such records are under seal unless a criminal history data

1 check is required by an employer as a matter of law. The bill  
2 specifies that the response by the department of public safety  
3 relating to a request of a person with a sealed record shall  
4 be indistinguishable from the response the department would  
5 provide to a request for criminal history data of a person with  
6 no criminal history data unless the person has criminal history  
7 data that is not sealed.

8 The bill specifies that on an application for employment, an  
9 applicant may indicate "no record" with respect to any inquiry  
10 relating to an arrest, criminal court appearance, or conviction  
11 for which the record is sealed, unless the employer is required  
12 to perform a criminal history data check as a matter of law,  
13 and in such a case the applicant shall be required to disclose  
14 the conviction.

15 The bill specifies that the sealing of a record related to a  
16 conviction shall not be construed to prevent the conviction to  
17 be counted as a previous offense for purposes of prosecution.

18 The bill defines "conviction" to mean a conviction for  
19 criminal offense and includes a guilty plea or deferred  
20 judgment. "Conviction" does not include a conviction for an  
21 offense classified as a simple misdemeanor punishable as a  
22 scheduled violation or similar offense.

23 The bill defines "seal" to mean to physically and  
24 electronically maintain the record, but to make the record  
25 unavailable to the public without a court order and to  
26 remove the petitioner's name from any official public record  
27 maintained by the department of public safety or the judicial  
28 branch including removal of all criminal history data relating  
29 to the conviction.

30 The bill defines "employer" to mean a person engaged in a  
31 business who has one or more employees, agents, or contract  
32 employees. "Employer" includes the armed forces of the United  
33 States, the Iowa army national guard, and the Iowa air national  
34 guard. "Employer" in the bill also includes an organization  
35 with volunteers.

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1     The bill takes effect January 1, 2013, and applies  
2 retroactively to a criminal offense committed on or after  
3 January 1, 1993.